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| Notice of Allowability | Application No. 09/276,207 | Applicant(s) Bullard |
| | Examiner Akers, Geoffrey | Art Unit 3624 |

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTO-85) or other appropriate communication will be mailed in due course.

THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS. This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. This communication is responsive to 2/5/03.

2. The allowed claim(s) is/are 1-21.

3. The drawings filed on _____ are accepted by the Examiner.

4. Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).

a) All b) Some* c) None of the:

1. Certified copies of the priority documents have been received.

2. Certified copies of the priority documents have been received in Application No. _____.

3. Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

*Certified copies not received: _____.

5. Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).

(a) The translation of the foreign language provisional application has been received.

6. Acknowledgement is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application. **THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.**

7. A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.

8. CORRECTED DRAWINGS must be submitted.

(a) including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
1) hereto or 2) to Paper No. 2.

(b) including changes required by the proposed drawing correction filed _____, which has been approved by the examiner.

(c) including changes required by the attached Examiner's Amendment/Comment or in the Office action of Paper No. _____.

Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the top margin (not the back) of each sheet. The drawings should be filed as a separate paper with a transmittal letter addressed to the Official Draftsperson.

9. DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

1 Notice of References Cited (PTO-892)

2 Notice of Informal Patent Application (PTO-152)

3 Notice of Draftsperson's Patent Drawing Review (PTO-948)

4 Interview Summary (PTO-413), Paper No. _____.

5 Information Disclosure Statement(s) (PTO-1449), Paper No(s). 21,23

6 Examiner's Amendment/Comment

7 Examiner's Comment Regarding Requirement for Deposit of Biological Material

8 Examiner's Statement of Reasons for Allowance

9 Other

DR. GEOFFREY R. AKERS, P.E.
PRIMARY EXAMINER

Art Unit: 3624

DETAILED ACTION

Response to Amendment

1. This action is responsive to applicant's Amendment D(Paper #22) filed 2/5/03.
2. Applicant's amendment D provided sufficient elaboration to bring the application into a condition for allowance. New claim 21 was added.
3. Claims 1-21 are now pending.

Allowable Subject Matter

4. Claims 1-21 are allowed. The following is a statement of the reasons for allowance. The instant invention provides a computer-implemented method for collecting and assembling data from network entities for a data using application. The system provides a subscriber with a service having a first characteristic and then observing at the network that the provided service to the subscriber now has a different second characteristic and consequently billing the subscriber for the service having the second characteristic which is actually delivered to the subscriber. The key elements which are specified in the independent claims 1,11,21 that differentiates the invention over the prior art are:

(A)-applicant's invention provides a computer implemented method which provides for billing a network subscriber proportionately with the quality of transmission service received in the network at the user's location.

Art Unit: 3624

(B)-applicant's invention provides for the monitoring of data transmission metrics which are correlated with a transmission service policy and billing the computer network subscriber only for the networking policy level of service actually delivered.

The present invention provides a method for billing a network subscriber according to the quality of service actually provided to the user. One primary way of determining this level is through statistical monitoring of packet loss in the network. The closest prior art, Egendorf(US Pat. No: 5,794,221) teaches an internet billing method for preventing customer and vendor account numbers from being transmitted over the internet and being intercepted. Hilt(US Pat. 5,465,206) teaches an internet bill pay system between a bank, a consumer and a vendor. Melen(US Pat. No: 5,956,391) teaches an electronic billing method where the customer purchases products over the internet and is charged for these goods on another statement as a telephone bill. Gell(US Pat. No: 5,802,502) teaches a system for selective communication connections based on transaction pricing signals which allows for choosing a service provider at the lowest price. Rieken(US Pat. No: 6,009,154) teaches a process for flexible rate charging for existing connections for various levels based on the specific contract the user has with the provider. It is clear from the the description of these inventions that the prior art does not address the feature of "billing the computer network subscriber for the networking transmission service having a second characteristic rather than for the service having the first characteristic" and "providing a computer network subscriber with a networking policy having a first level of service and collecting data from the computer network using an accounting process that collects different

Art Unit: 3624

kinds of metrics from the network and correlates the metrics to specified network flows and relates the collected and correlated metrics back to the policy that was defined with the first level of service and billing the computer network subscriber for the networking policy having a second level of service rather than for the policy having the first level of service” and “accepting a contract with a subscriber to provide a networking transmission service having a first characteristic and providing the subscriber with the provided network transmission service and observing at the network that the provided networking transmission service to the subscriber has a second characteristic and billing the subscriber for the networking transmission service having the second characteristic rather than for the service with the first characteristic” as described in the independent claims 1,11,21. The dependent claims are allowed because they are dependent from allowable independent claims as addressed.

The prior art of record which does not disclose this feature also includes:

-Watson(US Pat. No:5,978,780) teaches an integrated bill consolidation, payment and settlement system
-Lamm(US Pat. No: 6,078,907) teaches a method for electronically presenting and paying bills
Foreign Patent:JP 8237302 9/13/96 Masatsugu “Measuring Network Load of Terminal”
(NPL):He,J Telephony v 228 n23 6/1995 “SS7 Network Management Model”

5. Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue

Art Unit: 3624

fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Conclusion

6. Any questions regarding this communication should be directed to the primary examiner, Dr. Geoffrey Akers, P.E. who can be reached at (703)-306-5844 between the hours of 6:30 AM and 5:00PM Monday through Friday. If attempts to reach the primary examiner are unsuccessful, the primary examiner's supervisor, Mr. Vincent Millin, may be telephoned at (703)-308-1065.

GRA

May 2, 2003

**DR. GEOFFREY R. AKERS, P.E.
PRIMARY EXAMINER**